

VZCZCXYZ0001
PP RUEHWEB

DE RUEHSN #1158/01 2772142
ZNR UUUUU ZZH
P 032142Z OCT 08
FM AMEMBASSY SAN SALVADOR
TO RUEHBS/USEU BRUSSELS PRIORITY
RUEHC/SECSTATE WASHDC PRIORITY 0155
RUEKJCS/OASD ISA WASHINGTON DC PRIORITY
INFO RUEHZA/WHA CENTRAL AMERICAN COLLECTIVE

UNCLAS SAN SALVADOR 001158

SENSITIVE
SIPDIS

E.O. 12958: N/A

TAGS: [PGOV](#) [PREL](#) [ES](#)

SUBJECT: EL SALVADOR'S 2009 ELECTIONS: THE NUTS AND BOLTS

11. (SBU) Summary: On January 18, 2009, El Salvador will hold elections for its 84 Legislative Assembly seats, 20 Central American Parliament (PARLACEN) deputies, and 262 municipalities (262 mayors, each with its corresponding municipal council, the size of which varies by population). Presidential elections are scheduled for March 15, 2009. The Supreme Electoral Tribunal (TSE) oversees the elections, and is responsible for managing all aspects of the process, including the three levels of management under its authority. The 2009 elections are likely to be hotly contested, and as such, have the potential to spark social unrest.

Principal issues of concern are:

- TSE composition
- TSE procedural changes to its decision-making process
- Electoral Roll inconsistencies
- Unregulated private campaign financing
- Removal of the requirement of polling station officials to sign each ballot

Post appreciates the National Democratic Institute's (NDI's) program to build credibility in the vote counting, and recommends that international election observers are present to help assure that the elections proceed smoothly. End Summary.

Basic Facts

12. (U) As set forth in Article 154 of the Constitution, Salvadoran presidential elections take place every five years. A president is limited to a single five-year term. Legislative and municipal elections occur every three years, as set by Articles 124 and 202 of the Constitution. As a result, the two sets of elections overlap every 15 years, and 2009 is one of the overlap years.

13. (U) There are five functioning political parties in El Salvador. Two dominate the political spectrum: the (center-right, pro-U.S.) Nationalist Republican Alliance (ARENA) and the (left-wing) Farabundo Marti Liberation Front (FMLN). The other three are the (right-wing) Party of National Conciliation (PCN), the (centrist) Christian Democratic Party (PDC), and (center-left) Democratic Change (CD). Article 190 of the Electoral Code requires each political party to receive at least three percent of the vote in an election (or three percent per party if part of a coalition) to continue to function as a party. Despite the failure of the PDC and PCN to meet those requisite percentages in the 2004 presidential election, the TSE decided to allow the parties to continue to operate.

14. (SBU) The Electoral Code provides the basis for election guidelines in El Salvador, establishing the numbers of seats, the breakdown of representation, and rules of oversight of the electoral process. The Electoral Code establishes that

the Legislative Assembly is comprised of 84 deputies, divided proportionally amongst the 14 Departments based on population data from the 1992 census. Each Department has a minimum of three deputies. A census was completed in 2007, but in order to adjust the distribution of deputies, the Legislative Assembly must approve changes to the Electoral Code. Neither ARENA nor the FMLN, the two leading political parties, has supported this change. Based on the 1992 data, the electoral districts break down as follows:

San Salvador - 25 deputies
Santa Ana - 7 deputies
San Miguel - 6 deputies
La Libertad - 8 deputies
Sonsonate - 6 deputies
Usulután - 5 deputies
Ahuachapán - 4 deputies
La Paz - 4 deputies
La Unión - 4 deputies
Cuscatlán - 3 deputies
Chalatenango - 3 deputies
Morazan - 3 deputies
San Vicente - 3 deputies
Cabanas - 3 deputies

15. (SBU) Voters do not vote for candidates in El Salvador; they vote for parties. The presidential and municipal elections are decided by simple majority votes. For each municipality, the winning party secures the position of mayor along with the entire municipal council (Comment: The all-or-nothing approach to municipalities is an issue of contention in El Salvador, as uncontested dominance by any single political entity can hinder governmental effectiveness. End Comment). Each municipality has a mayor, a "síndico" (roughly the equivalent of a city attorney or legal advisor), and between two and ten council members, based on the population of the municipality.

16. (U) Legislative elections require parties to develop rank-order lists for each geographic Department. The number of valid votes is divided by the number of available seats in each Department to determine the electoral quotient. The number of valid votes that each party has received is divided by the electoral quotient to determine the number of seats that party has won. This calculation will generate remainder figures. These remainders are used to determine which party fills any leftover seats. If, at the end of this process, there is one unfilled seat, it is awarded to the party with the largest remainder. If there are two leftover seats, the second one goes to the party with the next highest remainder. This system generally favors smaller parties, particularly in the smaller Departments. (Note: The following is an example to illustrate this system. Assume that there are 450 valid votes in a Department, and three available seats. The electoral quotient is $450/3$, or 150. Party A has received 220 votes, Party B has received 150 votes, and Party C has received 80 votes. Party A gets one seat ($220/150 = 1$, remainder 70) and Party B gets one seat ($150/150 = 1$, no remainder). Party C did not receive enough votes to be immediately awarded a seat ($80/150 = 0$, remainder 80), so there is one leftover seat. However, Party C has the highest remainder (80 to Party A's 70), so it is awarded the seat. End Note.)

Governing Bodies

17. (U) The electoral process is governed by a hierarchical group of four governing bodies: The Supreme Electoral Tribunal (TSE), Juntas Electorales Departamentales (JEDs), or Departmental Electoral Boards, Juntas Electorales Municipales (JEMs), or Municipal Electoral Boards, and Juntas Receptoras de Votos (JRVs), or polling station officials.

18. (U) The TSE oversees all aspects of the electoral process. It develops the electoral calendar, maintains the voter registry, manages the logistics of the elections, and

monitors for any violations of voters' rights. It is also responsible for distributing public campaign funding to the political parties. The TSE is comprised of five judges. The Legislative Assembly selects three judges from lists provided by the three parties that earned the most votes in the preceding presidential election. They elect the remaining two from the Supreme Court. The candidates need a 2/3 Legislative Assembly vote to win. There are also five alternate judges, selected in the same manner.

¶9. (SBU) The group that took over the TSE in 2004 changed the way the body operates. Traditionally, any electoral changes required votes from 4 of 5 TSE members to pass. However, TSE President Walter Rene Araujo Morales (ARENA), with the support of PCN representative Julio Moreno Ninos and Supreme Court Justice Mario Alberto Salamanca Burgos, chose to reinterpret the Electoral Code, which states that changes require a "qualified majority." With this shift, ARENA and its allies took full control of the TSE, to the great objection of the two other TSE members. One immediate example of the post-2004 power wielded by the TSE was its decision to not dissolve the two political parties that failed to receive the required minimum percentages of the 2004 presidential vote to continue to function.

¶10. (U) There are 14 Department Electoral Boards (one per Department), which are overseen by the TSE. These bodies report election results to the TSE, supervise and issue ballot boxes to the Municipal Electoral Boards, and report to the TSE any disturbances in the electoral process. Each board consists of five members, one from each major political party. According to the electoral code, the TSE selects a member from lists submitted by each of the four parties that received the largest number of votes during the most recent election, and then the fifth is chosen at random by the TSE from the remaining parties (Note: As there are now only five functioning political parties, each board has one member from each party. End Note). There are also five alternates on each board, selected in the same fashion as the principals.

¶11. (U) There are 262 Municipal Electoral Boards (one per municipality), which supervise the polling stations within their municipalities. Their chief duties involve monitoring the actions of the polling station officials, ensuring that the electoral process functions unencumbered within the areas under their jurisdiction, and reporting any problems in the electoral process to the TSE and Department Electoral Boards. Each board has five members (one per party) and five alternates, selected in the same manner as the Department Electoral Boards.

¶12. (SBU) Thirty days prior to the election, the TSE names the polling station officials (JRVs) through the same method used to select the members of the electoral boards. The JRVs, under the authority of the Municipal Electoral Boards, administer the ballots at the polling stations. Once the polls close, the JRVs are responsible for counting and recording the votes. They are required to transmit reports to the TSE and Department Electoral Board detailing the total numbers of ballots received, valid votes for each party or coalition, annulled votes, abstentions, challenged votes, and unused ballots, as well as details about any irregularities observed during the voting process.

Campaign Financing

¶13. (SBU) Private campaign financing is not regulated. The TSE delivers public campaign financing to each party involved in an electoral campaign based on the numbers of votes received by each party in the preceding election. The amount of public financing for each party is generally not publicly announced; while there are no laws prohibiting public disclosure, there are also no laws requiring it. However, the newspaper La Prensa Grafica obtained and published the amounts tabbed for each party for the 2009 elections. The five parties will reportedly split a pool \$17.1 million

(ARENA will get \$8.35 million, the FMLN \$6.18 million, and the remainder will be divided among the three smaller parties).

The Voting Process

¶14. (SBU) Salvadoran citizens who have a Unique Document of Identification (DUI) and appear on the Electoral Register are eligible to vote. The Electoral Register is a data set drawn directly from the national list of DUIs. The DUI contains a fingerprint and picture, and currently costs \$10.31. A citizen must be 18 years of age to obtain a DUI, and must have obtained his/her DUI by July 21, 2008 in order to be included on the Electoral Register. Salvadorans who turn 18 between July 21, 2008 and the date of the election may be included on the register, but they must have pre-registered by the July 21 cutoff date. Salvadorans can verify their data online or at their local municipal offices. An NGO Electoral Observer, The Social Initiative for Democracy (ISD), reports that of the more than 130,000 people who will turn 18 between July 21, 2008 and March 15, 2009, only 20,469 (16 percent) pre-registered for their DUI.

¶15. (SBU) The TSE publishes the list of registered voters, along with their corresponding polling stations, in three places: the newspaper, online, and on machines placed in malls around the country. On election day, registered voters must vote at the polling station closest to the address on their DUI. Upon arrival at the polling station, officials check the voters' names against the Electoral Register, verify their DUIs, and distribute ballots. Voters then fill out their ballots and deposit them into ballot boxes. Each voter signs or gives a fingerprint to affirm that they have voted, and subsequently has his/her thumb stained with ink. Political parties are allowed to deploy vigilantes, or attendants, to the polling stations to provide assistance to the voters. Preliminary results are generally available within hours of the closing of polls.

¶16. (SBU) NDI is implementing a program to provide technical assistance to a domestic monitoring group. The program will compile an election day quick count to detect and deter irregularities, promote public confidence in the election, and provide validation for the election results. In addition, NDI is partnering with existing civil society networks to monitor pre-election activities such as campaign financing.

¶17. (SBU) There has been one procedural change since the last election that has caused some controversy. In the past, the President and Secretary of each JRV were required to sign each ballot cast (before it was filled out by the voter) to assure its legitimacy. The TSE removed this requirement in the interest of streamlining the voting process. The public is concerned that this will open the door to electoral fraud. The FMLN has also expressed concerns about this change. However, each JRV contains a member of each political party, and all are required to observe the entire voting process and subsequently affirm the numbers of votes in their reports to the TSE and Department Electoral Boards.

¶18. (SBU) Comment: Transparency and legitimacy are of the utmost importance to the 2009 elections. The 2009 elections have the potential to be very close races, and as such, have explosive potential. The losing party is likely to contest the results of any close election. Even if they do not result in abuses of the system, a decision like the TSE's administrative change to its decision-making process or its procedural change to forego JRV signatures on ballots could serve as the basis for a post-election protest and, potentially, as a spark for violence. The presence of credible domestic and international observers, along with clear messages to both main parties, will be essential in order to minimize the possibility of violence. End Comment.

TSE Electoral Calendar

¶19. (SBU) On September 1, 2008, the TSE released the official election calendar, as detailed below.

September 1, 2008	Call for the elections of President and Vice President, PARLACEN deputies, Legislative Assembly deputies, and Municipal Council members.
September 18, 2008	Registration period begins for candidates for President, Vice President, and the Legislative Assembly
September 18, 2008	Registration period begins for coalition pacts for elections of PARLACEN deputies, Legislative Assembly deputies, and Municipal Councils
September 23, 2008	Registration period begins for candidates for Municipal Council positions
October 9, 2008	The National Register of Natural Persons (RNPN) transmits a list to the TSE of all Salvadorans registered with a DUI. The TSE will then make each citizen's information available to him/her so that each person can reconcile any data inconsistencies.
October 26, 2008	Registration period ends for coalition pacts for elections of PARLACEN deputies, Legislative Assembly deputies, and Municipal Councils
November 14, 2008	Presidential electoral campaigns begin
November 17, 2008	Legislative electoral campaigns begin
November 18, 2008	Electoral Roll closes (90 days before elections)
December 17, 2008	Municipal electoral campaigns begin
January 13, 2009	Registration period ends for candidates for President and Vice President
January 14, 2009	Registration period ends for candidates for Legislative Assembly and Municipal Council positions
January 14, 2009	Legislative and municipal electoral campaigns end
January 18, 2009	Election day - PARLACEN deputies, Legislative Assembly deputies, and Municipal Council positions
January 19, 2009	First day of election results reporting
February 9, 2009	Deadline for election results
March 11, 2009	Presidential electoral campaigns end
March 15, 2009	Election day - President and Vice President

April 19, 2009	Presidential Runoff (if necessary)
May 1, 2009	Swearing in of Legislative Assembly and Municipal Council deputies
June 1, 2009	Inauguration Day for the new President

GLAZER